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**FACSIMILE TRANSMITTAL**

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**TO:**Name: Mail Stop RCE  
Group Art Unit 3738 / Examiner David H. Willse

Firm: U.S. Patent &amp; Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 10/825,522

Gary K. Michelson

Filed: April 15, 2004

METHOD FOR INSERTING NESTED INTERBODY

SPINAL FUSION IMPLANTS

Attorney Docket No. 101.0069-02000

Customer No. 22882

Confirmation No.: 8146

**FROM:**

Name: Amedeo F. Ferraro, Esq.

Phone No.: 310-286-9800

No. of Pages (including this): 4

Date: December 5, 2008

Confirmation Copy to Follow: NO

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**Message:****CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Transmittal Form (in duplicate; total amount of \$810.00 to cover the RCE fee is to be charged to Deposit Account No. 50-3726) and Request for Continued Examination (RCE) are being facsimile transmitted to the U.S. Patent and Trademark Office on December 5, 2008.



Sandra L. Blackmon

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FORM PTO-1083

Attorney Docket No. 1010069-02000  
Customer No. 22882

DEC 05 2008

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson

Serial No: 10/825,522

Filed: April 15, 2004

For: METHOD FOR INSERTING NESTED  
INTERBODY SPINAL FUSION  
IMPLANTS

Confirmation No.: 8146

Art Unit: 3738

Examiner: David H. Willse

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Further to the Advisory Action dated December 4, 2008, transmitted herewith is a Request for Continued Examination (RCE) in reply to the Final Office Action dated September 10, 2008 in the above-identified application.

- ☐ No additional fee is required.
- ☐ Applicant hereby requests a \*\*\*-month extension of time to respond to the above office action.
- ☒ The total amount of \$810.00 to cover the RCE fee is to be charged to Deposit Account No. 50-3726.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726.
- A copy of this sheet is enclosed.**
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO, LLP

Date: December 5, 2008

By:   
Amedeo F. Ferraro  
Registration No. 37,1291557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: (310) 286-9800  
Facsimile: (310) 286-2795

Transmittal of RCE

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FORM PTO-1083

DEC 05 2008

Attorney Docket No. 10170069-02000  
Customer No. 22882**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Gary K. Michelson

Serial No: 10/825,522

Filed: April 15, 2004

For: METHOD FOR INSERTING NESTED  
INTERBODY SPINAL FUSION  
IMPLANTS

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PTO/SB/30 (10-08)

Approved for use through 11/30/2008. OMB 0651-0031

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**Request  
for  
Continued Examination (RCE)  
Transmittal**

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	10/825,522
Filing Date	April 15, 2004
First Named Inventor	Gary K. Michelson
Art Unit	3738
Examiner Name	David H. Willse
Attorney Docket Number	101.0069-02000

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_
- b. ☐ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_

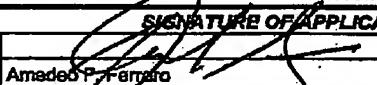
2. **Miscellaneous**

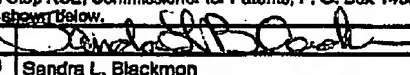
- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(e) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(f) required)
- b. ☐ Other \_\_\_\_\_

3. **Fees**

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.  
The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to
- a. ☒ Deposit Account No. 60-3726
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other \_\_\_\_\_
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
Signature		Date	December 5, 2008
Name (Print/Type)	Amadeo P. Ferraro	Registration No.	37,129

CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.	
Signature	
Name (Print/Type)	Sandra L. Blackmon
Date	December 5, 2008

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9189 and select option 2.

12/08/2008 VBUI11 00000005 503726 10825522

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